

REMARKS

Claims 1 is amended to remove "protective antioxidant" and to replace "and" with "or." Support for these amendments can be found throughout the specification as filed, including, for example in original Claim 1.

Claim 7 is amended to recite "said edible compound consists of a mixture of (i) a cellulose ether selected from the group consisting of hydroxypropylmethyl cellulose (HPMC), hydroxypropyl cellulose (HPC), methyl cellulose (MC), carboxymethyl cellulose (CMC), ethylmethyl cellulose (EMC) and their mixtures, and (ii) a lipid or a combination of various lipids." Support for this amendment can be found throughout the specification as filed, including, for example in original Claim 7.

Claim 12 is amended to recite "filmogenic solution that consists of a solvent and." In addition, Claim 12 is amended to correct a typographic informality and include "a)" and "b)." Support for these amendments can be found throughout the specification as filed, including, for example page 8, line 35 – page 10, line 19 of the specification as filed.

Claims 13, 18-19 are amended to recite "filmogenic solution consists of a solvent and." Support for these amendments can be found throughout the specification as filed, including, for example page 8, line 35 – page 10, line 19 of the specification as filed.

Claim 23 is amended to remove "an edible protein."

Claim 37 is added. Support for this amendment can be found throughout the specification as filed, including for example in original claim 4.

Accordingly, no new matter is added by any of the above amendments.

Claims 4-6, 8, 14-15, 17, 29, 33-36 are canceled.

On entry of these amendments claims 1-3, 7, 9-13, 16, 18-28, 30-32, and 37 are pending.

Rejection of Claims 1-3, 7-11, 33 and 36 under 35 USC § 112, paragraph 1

The Examiner contends that Claims 1-3, 7-11 and 36 fail to comply with 35 U.S.C. § 112 paragraph 1. In particular, the Examiner states that there is no support in the specification for "said film *consisting of*."

Applicant respectfully submits that the specification includes several embodiments which implicitly support a “film *consisting of* an edible compound.” Examples can be found throughout the specification as filed, and include, Example 1 which describes a filmogenic solution applied to a nut to produce coatings consisting of hydroxypropylmethyl cellulose (HPMC), hydroxypropyl cellulose (HPC), methyl cellulose (MC), carboxymethyl cellulose (CMC), *or* hydroxypropyl starch (HPA). Examples 2 and 3 describe a filmogenic solution applied to a nut to produce coatings that consist of hydroxypropylmethyl cellulose (HPMC) *or* acacia gum. Examples 4 and 5 describe a filmogenic solution applied to a nut to produce coatings that consist of hydroxypropylmethyl cellulose (HPMC). Therefore, Applicant respectfully submits that the specification supports a film *consisting of* an edible compound. Accordingly, for at least these reasons, Applicant respectfully requests that the rejection to Claim 1 and claims dependent therefrom, namely, Claim 3, 7, 9-11, be withdrawn.

In addition, the Examiner contends that there is no disclosure in the specification for the term “protective antioxidant film.” In order to expedite prosecution, Applicant has deleted the term “protective antioxidant film” from Claim 1. Accordingly, Applicant respectfully requests that the rejection to Claim 1 and claims dependent therefrom, namely, Claim 3, 7, 9-11, be withdrawn.

Rejection of Claims 7-8, 11 and 33 under 35 USC § 112, paragraph 2

The Examiner rejected Claims 7-8, 11 and 33 under 35 USC § 112, paragraph 2. In particular, the Examiner states that while Claims 7-8, 11 and 33 depend from Claim 1, the use of transitional phrase “consisting of” of Claim 1 excludes any ingredient not present in the claim and renders Claims 7-8, 11, and 33 indefinite.

With respect to Claim 7, the Examiner states that the recitation of adding an ingredient to the edible film renders the claim indefinite. Applicant respectfully disagrees. Claim 7 is amended to recite an edible compound that consists of ingredients present in Claim 1. Therefore, Applicant respectfully submits that the scope of Claim 7 is clear and requests that the rejection to Claim 7 be withdrawn.

With respect to Claim 11, the Examiner states that the recitation of a nut composition further comprising an additive renders the claim indefinite. Applicant respectfully disagrees and

submits that Claim 1 recites a nut composition *comprising* a nut and a layer of coating. Therefore, the nut composition may include additional ingredients. Claim 11 recites additional ingredients that can be added to the nut composition. Moreover, Applicant submits that the specification fully supports the addition of additional ingredients that may be added to the nut composition *before* or *after* applying a layer of coating to the nut composition. *See Specification*, page 10, line 33 – page 11, line 3. Thus, the additional ingredients are not necessarily a component of the layer of coating. Therefore, the scope of Claim 11 is clear because additional ingredients may be added to the nut composition of Claim 1, and such additional ingredients are not necessarily a component of the layer of coating. Accordingly, Applicant respectfully requests that the rejection to Claim 11 be withdrawn.

Rejection of Claims 1-3, 8-15, 17-23, 25, 27-28, 30-35 under 35 USC § 103(a)

The Examiner contends that Claims 1-3, 8-15, 17-23, 25, 27-28, 30-35 are obvious over Steele et al (WO 83/00278) in view of Grillo et al (U.S. 5,470,581).

Applicant respectfully submits that Steele et al discloses a blanched peanut having an edible coating comprising ground peanut skins, pregelatinized starch, a hydrophilic colloid film former (selected from gum acacia, gelatin, guar gum, dextrans, alginates, cellulose derivatives and vegetable protein fractions), a sugar and sodium chloride. *See, Steele et al*, page 3, lines 28-32, and claim 1).

In addition, Grillo et al discloses a method for coating, for example, pistachio nuts (example 9), with a protecting film, wherein the method comprises the steps of: (a) mixing a cellulosic polymer (selected from methylcellulose (MC), hydroxypropylcellulose (HPC), hydroxy-propylmethylcellulose (HPMC), hydroxyethylcellulose and carboxymethylcellulose (CMC)), maltodextrin, and a plasticizer to form an aqueous suspension; (b) spraying the suspension onto the substrate to be coated; and (c) drying the film coating obtained.

Applicant respectfully submits that the edible film of the nut composition of Claim 1 does not contain peanut skins, pregelatinized starch, sugar and/or sodium chloride. Therefore, Claim 1 is novel over Steele et al. In addition, the edible film of Claim 1 does not contain a plasticizer. Therefore, Claim 1 is novel over Grillo et al.

Applicant respectfully submits that one of ordinary skill in the art, in view of the disclosures in Steele et al and Grillo et al would not have arrived at the nut composition of Claim 1. A skilled artisan combining the disclosures of Steele et al and Grillo et al would have added maltodextrin and the particular cellulosic polymers disclosed in Grillo et al to the nut composition disclosed in Steele et al to arrive at a peanut coated with an edible film that contains: ground peanut skins; pregelatinized starch; a hydrophillic colloid film former such as gum acacia, maltodextrin (as a particular dextrin disclosed in Grillo et al), or methylcellulose (MC), hydroxypropylcellulose (HPC), hydroxypropylmethylcellulose (HPMC), hydroxyethylcellulose or carboxymethylcellulose (CMC) (as particular cellulose derivatives according to Steele et al); a sugar; and sodium chloride.

In view of the above, Applicant respectfully submits that Claim 1 is not obvious over Steele et al in view of Grillo et al. Therefore, Claims 2-3, and 9-11 which depend from Claim 1 are also not obvious over Steele et al in view of Grillo et al. For at least the same reasons, Applicant respectfully submits that Claims 12-13, 18-28, and 30-32 are also non-obvious over Steele et al in view of Grillo et al. Accordingly, Applicant respectfully submits that Claims 1-3, 9-13, 18-28, 30-32 are not obvious and the rejection should be withdrawn.

Rejection of Claims 7, 16, and 36 under 35 USC § 103(a)

The Examiner contends that Claims 7, 16, and 36 are obvious over Steele et al, Grillo et al, and further in view of Kester et al ("An Edible Film of Lipids and Cellulose Ether").

Applicant respectfully submits that dependent Claims 7 and 16 require all the limitations of independent Claims 1 and 12, respectively. Kester et al does not supply the deficiencies of Steele et al combined with Grillo et al discussed above. Therefore, Claims 7 and 16 are not obvious over Steele et al and Grillo et al and further in view of Kester et al. Accordingly, Applicant respectfully requests that the Examiner withdraws the rejections to Claims 7 and 16.

Rejection of Claims 24 and 26 under 35 USC § 103(a)

The Examiner contends that Claims 24 and 26 are obvious over Steele et al, Grillo et al, and further in view of Fellows ("Food Processing Technology-Principles and Practice").

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Applicant respectfully submits that dependent Claims 24 and 26 require all the limitations of independent Claim 12. Fellows does not supply the deficiencies of Steele et al combined with Grillo et al discussed above. Therefore, Claims 24 and 26 are not obvious over Steele et al and Grillo et al and further in view of Fellows. Accordingly, Applicant respectfully requests that the Examiner withdraws the rejections to Claims 24 and 26.

Rejection of Claim 29 under 35 USC § 103(a)

The Examiner contends that Claim 29 is obvious over Steele et al, Grillo et al, and further in view of Seaborne et al (U.S. 4,820,533). Claim 29 is canceled. Accordingly, Applicant respectfully requests that the Examiner withdraws the rejection to Claim 29.

No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

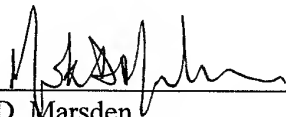
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Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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